

DM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

FILED

07 NOV -5 AM 10:16

UNITED STATES OF AMERICA,

Plaintiff,

v.

Elfego ARCE-Martinez,

Defendant

Magistrate Docket No.

07 MJ 2590


COMPLAINT FOR VIOLATION OF:

Title 8, U.S.C., Section 1326
Deported Alien Found in the
United States

The undersigned complainant, being duly sworn, states:

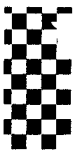
On or about **November 2, 2007** within the Southern District of California, defendant, **Elfego ARCE-Martinez**, an alien, who previously had been excluded, deported and removed from the United States to **Mexico**, was found in the United States, without the Attorney General or his designated successor, the Secretary of the Department of Homeland Security (Title 6, United States Code, Sections 202(3) and (4), and 557), having expressly consented to the defendant's reapplication for admission into the United States; in violation of Title 8 United States Code, Section 1326.

And the complainant further states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.


SIGNATURE OF COMPLAINANT
James Trombley
Senior Patrol Agent

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS 5th DAY OF NOVEMBER, 2007


Cathy A. Bencivengo
UNITED STATES MAGISTRATE JUDGE



JDM

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

RETURN OF PROBATION REPORT

Re: Defendant's Probation Report and Defendant's Statement to the Court.

On November 2, 2007 Border Patrol Agent J. Morales was performing line watch operations near Camino Del Rio. At 1:00 PM, a gun detector sounded in a sensor zone near Avenue S. This zone is located approximately seven miles east of the port of entry at Tecate, California and approximately 2 miles north of the United States/Mexico border. Upon arriving in the sensor zone, Morales observed an individual later identified as the defendant, Enrique Alberto Hernandez, driving in a dark, light-colored sedan. Morales identified the defendant as a person who had been arrested in 2006 and is his undersigned officer. The defendant's arrest and the well-documented details of his arrest are in the attached file. The defendant was taken into custody and transported to the San Diego County Jail for processing.

During a brief search of the defendant's criminal and immigration history, the defendant's record was identified by a review of his criminal record and the defendant's current immigration status. Morales identified the defendant as a person who had been arrested in 2006 and is his undersigned officer. The defendant's arrest and the well-documented details of his arrest are in the attached file. The defendant was taken into custody and transported to the San Diego County Jail for processing.

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Respectfully,
J. Morales

J. Morales
Border Patrol Agent

Under penalty of perjury, I, the undersigned, do hereby certify that the foregoing is a true and correct statement of the facts and circumstances surrounding the defendant's arrest and the well-documented details of his arrest are in the attached file. The defendant was taken into custody and transported to the San Diego County Jail for processing.

J. Morales

11-4-07 @ 9:33 am
Date/Time

United States Magistrate Judge

JDM

CONTINUATION OF COMPLAINT:
Elfego ARCE-Martinez

PROBABLE CAUSE STATEMENT


I declare under the penalty of perjury that the following statement is true and correct:

On November 2, 2007 Border Patrol Agent J. Morales was performing line watch operations near Campo, California. At 1:20 PM Agent Morales responded to a sensor alert near Zuellner's. This area is located approximately seven miles east of the port of entry at Tecate, California and approximately 2 miles north of the United States/Mexico border. Upon arriving in the area Agent Morales encountered an individual later identified as the defendant **Elfego ARCE-Martinez** hiding in brush. Agent Morales identified himself as a Border Patrol Agent and queried the defendant as to his immigration status. The defendant admitted that he was a citizen of Mexico illegally present in the United States. The defendant was taken into custody and transported to Campo Border Patrol Station for processing.

Routine record checks of the defendant revealed a criminal and immigration history. The defendant's record was determined by a comparison of his criminal record and the defendant's current fingerprint card. Official immigration records of the Department of Homeland Security revealed the defendant was previously deported to **Mexico** on **October 28, 2007** through **San Ysidro, California**. These same records show that the defendant has not applied for permission from the Attorney General of the United States or his designated successor, the Secretary of the Department of Homeland Security, to return to the United States after being removed.

The defendant was advised of his rights as per the Miranda Warning. The defendant stated that he understood his rights and agreed to be interviewed without representation. The defendant admitted that he is a citizen and national of Mexico illegally present in the United States. He admits that he knowingly entered the United States illegally on November 2, 2007.

Executed on November 4, 2007 at 9:00 a.m.



 Raul Castorena
 Senior Patrol Agent

On the basis of the facts presented in the probable cause statement consisting of **1** page(s), I find probable cause to believe that the defendant named in this probable cause statement committed the offense on **November 2, 2007**, in violation of Title **8**, United States Code, Section **1326**.

 Peter C. Lewis
 United States Magistrate Judge

 Date/Time